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REMARKS

Claims 2-18 and 25-68 are pending in the present application. Reconsideration is requested for the following reasons.

Applicant would like to thank the Examiner and the Examiner's supervisor for taking the time to have a telephone interview on June 26, 2002, wherein the objection to the drawings, the 35 U.S.C. §112, first paragraph, rejection of claims 26-29 and prior art rejections of claims 9, 12, 16, 25, 26, 30 and 40 were discussed. As stated by an Examiner, a new figure showing a flow diagram of the method of using the measuring and layout device of claims 26-29 could be added to the application as having support in claims 26-29 and to thereby overcome the objection to the drawings. Accordingly, Applicant submits new Fig. 17 incorporating the subject matter of claims 26-29. Furthermore, Applicants have added a description of the subject matter of claims 26-29 in regard to Fig. 17 to overcome the 35 U.S.C. §112, first paragraph, rejection. Applicant has also amended Fig. 1 to prevent duplication of the numbers. Accordingly, Applicant believes that the objection to the drawings and the rejection of claims 26-29 under 35 U.S.C. §112, first paragraph, have been obviated. Additionally, as discussed in the interview, claims 12, 16, 25, 26, 30 and 40 have been amended to state that the angle and distance device is attached to the stationary member. According to the Examiner, such an amendment would overcome the rejection of U.S. Patent No. 3,269,015 to Barker. Accordingly, claims 9, 12, 16, 25, 26, 30 and 40 are believed to be in condition for allowance. Furthermore, claims 2-8, 10, 13-15, 27-29, 31-42 and 54-68 depend from claims amended as suggested by the Examiner. Accordingly, Applicant submits that these dependent claims are also in condition for allowance.

The Examiner has indicated that claim 68 would be allowable if rewritten in independent form including all of the limitations of the base claim. Applicant would like to thank the Examiner for that notification. Claim 68 has been so rewritten and is believed to be in condition for allowance.

In the Office Action, claims 9 and 10 were rejected because the phrase "template includes" should be changed to "template is formed by." Claims 9 and 10 have been amended

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as suggested by the Examiner. Applicant submits that the objections to claims 9 and 10 are obviated.

Claim 17 has been rejected under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 3,269,015 to Baker alone or in combination with U.S. Patent No. 6,115,931 to Arcand. Claim 17 defines a method of measuring and laying out a template of a room including, among other things, providing a stationary member, providing a tape measure, extending the tape measure to a critical feature of an area in a room to be measured, and recording direction and distance information on the stationary member from the tape measure relating to the critical feature. The prior art of record does not disclose or suggest the above noted features of claim 17. Specifically, neither Baker nor Arcand disclose extending a tape measure to a critical feature of an area in a room to be measured or recording direction and distance information on a stationary member from a tape measure relating to a critical feature of an area in a room to be measured.

"To establish prima facie obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art." *In re Royko*, 180 U.S.P.Q. 580 (C.C.P.A. 1974); M.P.E.P. §2143.03. "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); M.P.E.P. §2143.03. Baker discloses a layout instrument for drawing lines 39 and arcs 40. Therefore, Baker alone as modified or in combination with Arcand would not disclose both extending a tape measure to a critical feature of an area and recording both direction and distance information on a stationary member from the tape measure relating to the critical feature, which are claim limitations of claim 17. Additionally, the claimed steps are not inherently completed while drawing lines 39 and arcs 40. Therefore, all claim limitations of claim 17 are not taught or suggested by the prior art. Accordingly, claim 17 is in condition for allowance.

Claims 18 and 40-53 depend from claim 17, and since claim 17 defines unobvious patentable subject matter, claims 18 and 40-53 define patentable subject matter. Furthermore, in regard to claims 40-42, the prior art of record does not disclose or suggest the method of claim 17 along with rotatably attaching a carrier to the stationary member, as discussed above.

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Moreover, in regard to claim 44, the prior art of record does not disclose or suggest the method of claim 17, wherein the stationary member includes a board that has non-slip feet. Martinez discloses a board 12 having legs 18 that are pointed so that the board 12 can be securely positioned in place on a green of a golf course. See lines 62-67 of column 2 of Martinez. There is no motivation to combine Barker with Martinez because the layout instrument of Barker is not used on a golf course. Accordingly, claims 18 and 40-53 are in condition for allowance.

All pending claims 2-18 and 25-68 are believed to be in condition for allowance, and a Notice of Allowability is therefore earnestly solicited.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version With Markings to Show Changes Made."

Respectfully submitted,
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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Specification:

The following paragraph has been inserted on page 3, line 29:

FIG. 17 is a schematic view of a method using the fifth embodiment of the measuring and layout device of the present invention.

The paragraph beginning on page 4, line 21 has been amended as follows:

The illustrated stationary member 12 is a board or a thin panel. The stationary member 12 preferably has a substantially semi-circular configuration (FIG. 1) with a straight edge 13 between two circumferential ends [15] 17 of the semi-circle. The straight edge 13 is preferably slightly shorter than the diameter of the semi-circle. It is contemplated that the stationary member 12 could have any shape depending on the area to be measured. For example, the stationary member 12 can have a circular (FIG. 5), square or rectangular configuration. The stationary member 12 includes a top surface 26 that can be erasably marked on. Alternatively, a sheet of paper can be attached to the surface 26 to be marked on. The illustrated stationary member 12 has non-slip feet 14 attached to a bottom surface 24 of the stationary member 12. Notably, these non-slip feet 14 are not needed in many applications. Where needed, the non-slip feet 14 are made of a friction-generating material that will prevent movement of the measuring and layout device 10 once the measuring and layout device 10 is placed into position. When the surface to be measured can be scratched or where it has a tendency to be slippery, preferably, the non-slip feet 14 are suction cups made of non-marring material although pointed feet, rubber feet, or the like can also be used. The angle and distance device 15 is pivotally mounted to the top surface 26 of the stationary member 12 at the axis of the stationary member 12. Preferably, the angle and distance device 15 is pivotally connected to the stationary member 12 by a snap fastener 28 that allows the angle and distance device 15 to be removed from the stationary member 12. The snap fastener 28 also allows the angle and distance device 15 to rotate 360 degrees relative to the stationary member 12. Therefore, the angle and distance device 15 can be removed from a first

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stationary member and then attached to a second stationary member. The snap fastener 28 therefore allows the angle and distance device 15 to be used with several different stationary members 12. It is contemplated that a rivet could connect the angle and distance device 15 to the stationary member 12, thereby securely connecting the angle and distance device 15 to the stationary member 12.

The following paragraph has been inserted on page 14, line 18:

FIG. 17 discloses a method of measuring an area and drawing a template on a work piece using the measuring and layout device 10d of FIGS. 14 and 14A. The method includes the step of providing the measuring and layout device at method step 500, wherein the measuring and layout device 10d includes the stationary member 12d having the flat surface 26d adapted to be marked on and the angle and distance device 15d rotatably coupled to the stationary member 12d. The angle and distance device 15d used in this method includes the longitudinally and laterally rigid extendible tape that can be extended from a central point and the edge that facilitates reliably marking on the stationary member to form an accurate template as the angle and distance device 15d is rotated and the tape is extended and retracted to critical features of an area. The method also includes the step of operably connecting a motor and motor controller 150 to the tape for extending, retracting and axially rotating the tape at step 502, wherein the motor controller is programmed to record data and create an electronic version of the template. The method can also include the step of providing a marker on one end of the tape at step 504, with the motor controller being programmed to move the marker in accordance with the template on a surface. The method also includes the step of automatically operating the motor controller to form an accurate template as the angle and distance device 15d is rotated and the tape is extended and retracted to critical features of an area at step 506. The method further includes the step of recording data with the motor controller at step 508 and creating an electronic version of the template at step 510, wherein the template comprises a picture. Additionally, the method includes the step of moving the marker with the motor controller in accordance with the template on a surface at step 512 and automatically operating the motor controller to draw the template on a work piece at step 514.

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In the Claims:

Claims 9, 12, 16, 25, 26, 30 and 40 have been amended as follows.

9. (Twice Amended) A measuring and layout device comprising:
a stationary member having a flat surface adapted to be marked on; and
an angle and distance device rotatably [coupled] attached to the stationary member, the
angle and distance device including a longitudinally and laterally rigid extendable tape that can
be extended from a central point and an edge that facilitates reliably marking on the stationary
member to form an accurate template as the angle and distance device is rotated and the tape is
extended and retracted to critical features of an area;
wherein the [template includes] template is formed by markings written directly onto
the stationary member.
10. (Twice Amended) The measuring and layout device of claim 12, wherein:
the [template includes] template is formed by markings written onto a paper placed on
the stationary member.
12. (Twice Amended) A measuring and layout device comprising:
a stationary member having a flat surface adapted to be marked on; and
an angle and distance device rotatably [coupled] attached to the stationary member, the
angle and distance device including a longitudinally and laterally rigid extendable tape that can
be extended from a central point and an edge that facilitates reliably marking on the stationary
member to form an accurate template as the angle and distance device is rotated and the tape is
extended and retracted to critical features of an area;
wherein the stationary member has a substantially semi-circular configuration.
16. (Twice Amended) A measuring and layout device comprising:
a stationary member having a flat surface adapted to be marked on; and
an angle and distance device rotatably [coupled] attached to the stationary member, the

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angle and distance device including a longitudinally and laterally rigid extendable tape that can be extended from a central point and an edge that facilitates reliably marking on the stationary member to form an accurate template as the angle and distance device is rotated and the tape is extended and retracted to critical features of an area;

wherein the tape has a pivotal pointer at a distal end.

25. (Amended) A method of measuring and laying out an area comprising:
providing a stationary member having a flat surface adapted to be marked on;
rotatably [coupling] attaching an angle and distance device to the stationary member,
the angle and distance device including a longitudinally and laterally rigid extendable tape that can be extended from a central point and an edge that facilitates reliably marking on the stationary member; and
forming an accurate template by reliably marking on the stationary member as the angle and distance device is rotated and the tape is extended and retracted to critical features of the area.

26. (Amended) A measuring and layout device comprising:
a stationary member having a flat surface adapted to be marked on;
an angle and distance device rotatably [coupled] attached to the stationary member, the angle and distance device including a longitudinally and laterally rigid extendable tape that can be extended from a central point and an edge that facilitates reliably marking on the stationary member to form an accurate template as the angle and distance device is rotated and the tape is extended and retracted to critical features of an area; and
a motor and motor controller operably connected to the longitudinally and laterally rigid tape for extending, retracting and axially rotating the tape;
the motor controller being programmed to record data and create an electronic version of the template.

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30. (Amended) A measuring and layout device comprising:
a stationary member having a flat surface adapted to be marked upon;
a carrier rotatably [connected] attached to the stationary member; and
an extendable tape connected to the carrier, the tape being configured to be extended from the carrier, the tape including an edge that facilitates reliably marking on the stationary member to form an accurate template as the carrier is rotated and the tape is extended and retracted to critical features of an area;
wherein the carrier includes a tape extender for mechanically extending the tape, thereby allowing a single person to create the template while staying in a single central location.
40. (Amended) The method of measuring and laying out of claim 17, further including:
rotatably [coupling] attaching a carrier to the stationary member; and
connecting the tape measure to the carrier.
68. (Amended) [The method of measuring and laying out of claim 25, wherein:] A method of measuring and laying out an area comprising:
providing a stationary member having a flat surface adapted to be marked on;
rotatably coupling an angle and distance device to the stationary member, the angle and
distance device including a longitudinally and laterally rigid extendable tape that can be
extended from a central point and an edge that facilitates reliably marking on the stationary
member; and
forming an accurate template by reliably marking on the stationary member
as the angle and distance device is rotated and the tape is extended and retracted to critical
features of the area; wherein
the step of forming an accurate template includes writing a distance of the tape from the stationary member to the critical feature on the stationary member and writing angle information on the stationary member signifying an angle of the tape relative to the stationary member.